FARAD CONTINUATION SHEET NO:

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

CIVIL APPLICATION NO.1461 OF 2007
IN
SECOND APPEAL NO.288 OF 2003

Office Notes, Office Memoranda of coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders.

Mr.Umesh Mankapure for the applicant.
Mr.A.M.Kulkarni for the respondents.

CORAM: D.B.BHOSALE, J.
DATED: 24TH OCTOBER, 2007

P.C.:

. Heard learned counsel for the parties.

2. By this civil application the applicant has prayed for injunction restraining the respondents from interfering/disturbing peaceful possession and enjoyment of the suit land of the appellant. It appears that the suit was filed by the respondent for possession. It was decreed by the trial Court vide judgment and order dated 27.7.1994 directing the defendant to deliver possession of the suit property mentioned in paragraph 1 of the plaint. The judgment of the trial Court was carried in appeal by the applicant and in the appeal, this court is informed, there was an interim stay granted by the appellate court to the judgment of the trial Court. The appeal was allowed vide judgment and order dated 1st November, 2002. It

is against that order the second appeal came to be admitted by this court on 21st January, 2004. It appears that after admission of the appeal, on civil application no.430 of 2003 this court passed an order of status quo in view of the bald statement made in the application in paragraph 8 that the applicant is in physical possession of the suit land. It is against this backdrop the applicant has stated in the present application that taking advantage of the order of the status quo the respondents are trying to obstruct the possession of the applicant. Mr.Kulkarni, learned counsel for the respondents submitted that after the judgment of the trial Court dated 27.7.1994 the applicant handed over possession to the original plaintiffs and since then they are in possession. He says that the revenue record supports their contention. Over and above such statement there is absolutely nothing on record to show that after judgment of the trial court the possession was handed over by the applicant to the respondents. I find no material on record in support of such contention. In the circumstances this application is made absolute in terms of prayer clause (b). Civil application is disposed of.

(D.B.BHOSALE, J.)